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EXAMINER

MICHALSKI, JUSTIN I

ART UNIT PAPER NUMBER

2644

DATE MAILED: 09/24/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/705,035

Applicant(s)

OBA ET AL.

Examiner

Justin Michalski

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11 August 0204.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-8 and 10-12 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-8 and 10-12 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Claim Objections

1. Claim 7 is objected to because of the following informalities: Claim 7, an apparatus claim, contains the verbs "receives" in line 3 and "demodulates" in line 5 which are inconsistent with the prior claim language. Appropriate correction is required.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claim 1, 2, 5, 6, and 10-12 are rejected under 35 U.S.C. 102(e) as being anticipated by Haynes (US Patent 6,118,822).

Regarding Claim 1, Haynes discloses a portable audio listening apparatus (Figures 1 and 2) comprising: means for generating an audio modulated signal modulated in a band in which a signal is transferred by using a human body of a single user (Col. 1, lines 34-40); a first electrode for outputting the generated audio modulated signal (24); a second electrode (36) for receiving the audio modulated signal transferred through the first electrode and then through the body of the single user, with a transmission path of the audio modulated signal not being coactively coupled to ground;

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means for demodulating the audio modulated signal received by the second electrode; and means for generating audible sound according to the demodulated signal (Col. 1, lines 53-58); wherein said second electrode is attached to the audible sound generating means and configured to fit on or around at least one ear of the single user to direct the audible sound into the at least one ear of the single user.

Regarding Claim 2, Haynes discloses a portable audio listening apparatus (Figures 1 and 2) comprising: a portable transmission apparatus and a portable receiving apparatus electrically and mechanically structured as different units, the portable transmission apparatus comprising: means for generating an audio modulated signal modulated in a band in which a signal is transferred by using a human body of a single user (Col. 1, lines 34-40) and a first electrode (24) for outputting the generated audio modulated signal, and the portable receiving apparatus comprising: a second electrode (36) for receiving the audio modulated signal transferred through the first electrode and then through the body of the single user; means for demodulating the audio modulated signal received by the second electrode; and means for generating audible sound according to the demodulated signal (Col. 1, lines 53-58); wherein said second electrode is attach to the audible sound generating means and configured to fit on or around at least one ear of the single user to direct the audible sound into the at least one ear of the single user.

Regarding Claim 5, Haynes further discloses the transmission apparatus further comprises playback means for playing back an audio signal to be modulated and

control means for controlling the playback means (Haynes discloses control for CD track or radio station selection, Col. 3, lines 3-4).

Regarding Claim 6, Haynes further discloses the playback means accommodates a detachable recording medium and reproduces an audio signal from the recording medium (Haynes discloses CD, i.e. recording medium, Col. 3, lines 3-4).

Regarding Claim 10, Haynes discloses a portable receiving apparatus comprising: an electrode for receiving an audio modulated signal transferred through a human body of a user; means for demodulating the audio modulated signal received by the electrode; and means for generating audible sound according to the demodulated signal; wherein the second electrode is attached to the audible sound generating means and configured to fit on or around the user's at least one ear to direct the audible sound into the user's at least one ear.

Regarding Claim 11, Haynes further discloses the second electrode, the demodulating means and the audible sound generating means are incorporated into a headphone (Figure 1, Col. 1, lines 56-57).

Regarding Claim 12, Haynes further discloses the second electrode is at least on ear pad on the headphone (Figure 1).

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the

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invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 3 and 4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Haynes as applied to claim 2 above in view of Coppersmith et al. (Hereinafter "Coppersmith") (US Patent 5,796,817).

Regarding Claims 3 and 4, Haynes discloses an apparatus as stated apropos of claim 2 above but does not disclose the transmission apparatus and receiving apparatus comprising means for storing individual authentication data. Coppersmith discloses a device for transmitting signals through the human body (Figure 2) including a transmitter module containing an ID number (i.e. authentication data) and a receiver module which comprises an authenticator which will inherently store received authentication data from transmitter to process the information. Coppersmith discloses the authentication data is used to prevent unauthorized parties to use devices (paragraph bridging columns 2 and 3). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to include authentication data to prevent unauthorized parties to use the transmission apparatus.

6. Claim 7 and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Haynes.

Regarding Claim 7, Haynes discloses an apparatus as stated apropos of claim 2 above. Haynes further discloses a transmission apparatus receiving by an electrode (24) an audio modulated signal transferred from a predetermined another transmission apparatus (earphone) by using a human body, and demodulates the received audio

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modulated signal (Col. 2, line 66 through Col. 3, line 14). Haynes does not explicitly disclose the transmission apparatus comprises recording means but discloses the invention could be used for mobile speech recording (Col. 3, lines 15-23). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate recording means into the transmission apparatus to produce a speech recording system as disclosed by Haynes.

Regarding Claim 8, Haynes further discloses transmitting two different signals with two different carrier frequencies (Col. 5, lines 14-15).

Conclusion

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Naruki (US Patent 4,450,495) discloses a mobile speech recording unit that can be attached to the body of the user including jacks for a microphone and headphones.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Justin Michalski whose telephone number is (703)305-5598. The examiner can normally be reached on 8 Hours, 5 day/week.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Bill Isen can be reached on (703)305-4386. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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JIM



XU MEI
PRIMARY EXAMINER